

Order

Michigan Supreme Court
Lansing, Michigan

June 24, 2014

Robert P. Young, Jr.,
Chief Justice

148486 & (18)

Michael F. Cavanagh
Stephen J. Markman
Mary Beth Kelly
Brian K. Zahra
Bridget M. McCormack
David F. Viviano,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 148486
COA: 318666
Calhoun CC: 2007-001511-FC

STEVEN GILLIARD,
Defendant-Appellant.

By order of April 28, 2014, the prosecuting attorney was directed to answer the application for leave to appeal the December 20, 2013 order of the Court of Appeals. On order of the Court, the answer having been received, the application for leave to appeal is again considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Calhoun Circuit Court for the appointment of substitute appellate counsel, in light of *Halbert v Michigan*, 545 US 605; 125 S Ct 2582; 162 L Ed 2d 552 (2005). Based on our review of the record, the circuit court granted original appointed appellate counsel's motion to withdraw, but failed to appoint substitute appellate counsel until after the then effective 12-month deadline to file a direct appeal had expired. See MCR 7.205(F). On remand, substitute appellate counsel, once appointed, may file an application for leave to appeal in the Court of Appeals, and/or any appropriate postconviction motions in the circuit court, within six months of the date of the circuit court's order appointing counsel. Counsel may include among the issues raised, but is not required to include, the issue raised by the defendant in his motion for relief from judgment that was filed in 2009.

We do not retain jurisdiction.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 24, 2014


Clerk